

SHORT TERM LETS

LICENSING POLICY STATEMENT

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Foreword

This Policy Statement is the first one published by the East Ayrshire Licensing Panel.

The purpose of the Policy is to provide guidance for applicants, licence holders and members of the public on the licensing system for short term lets.

The Policy describes how the Council will manage the licensing scheme of short-term lets throughout the Council area, including setting out applicable fees, types of licences and complaints and enforcement procedures.

Consultation on the draft policy statement took place during the period from 19 August 2022 until 16 September 2022.

A Report providing details of the comments received from consultees was considered at the meeting of East Ayrshire Licensing Panel on 27 September 2022. A copy of the Report is available online at [Short Terms Lets Licensing.pdf \(east-ayrshire.gov.uk\)](#)

This Policy Statement will be reviewed and revised periodically.

1. Background

- 1.1 The Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022 ("the Order") was approved by the Scottish Parliament on 19 January 2022. The Order came into force on 1 March 2022 and inserts new legislative provisions into the Civic Government (Scotland) Act 1982 ("the Act").
- 1.2 The Order introduces a new mandatory licensing system for short term lets which local authorities are required to establish by 1 October 2022.
- 1.3 The effect of the Order is that from 1 October 2022, the use of accommodation for a short-term let is an activity for which a licence is required under the Act.
- 1.4 The licensing scheme was brought in by the Scottish Government with the aim to ensure short term lets are safe, address issues faced by neighbours, to facilitate local authorities in knowing and understanding what is happening in their area and handling complaints effectively. It also enables local authorities to ensure the people providing short term lets are suitable. The legislation aims to make sure that the economic and tourism benefits from short term lets are balanced with the needs and concerns of local communities.

2. Timescales for Applying for a Licence

- 2.1 After 1 October 2022, new hosts and operators will need to have a licence. This means that, if you were not using your premises to provide short term lets before 1 October 2022, you can advertise but cannot take bookings or receive guests until you have obtained a licence.
- 2.2 Existing hosts or operators (those using accommodation to provide short-term lets before 1 October 2022) have until 1 October 2023 to apply for a licence. During this period you can operate without a licence (by continuing to take bookings and receive guests) unless your licence application has been determined and refused.
- 2.3 After 1 October 2023, existing hosts can only continue to operate if they have submitted an application for a licence on or before 1 October 2023 that has not yet been determined or been granted a short-term let licence.

3. Definitions

- 3.1 A short term let is defined in the Act as the use of residential accommodation provided by a host in the course of business to a guest, where all the following criteria are met:
 - (a) The guest does not use the accommodation as their only or principal home;
 - (b) The short term let is entered into for commercial consideration;
 - (c) The guest is not:

- (i) An immediate family member of the host;
 - (ii) Sharing the accommodation with the host for the principal purpose of advancing the guest's education as part of an arrangement made or approved by a school, college, or further or higher educational institution, or
 - (iii) An owner or part owner of the accommodation
- (d) The accommodation is not provided for the principal purpose of facilitating the provision of work or services by the guest to the host or to another member of the host's household;
- (e) The accommodation is not excluded accommodation;
- (f) The short term let does not constitute an excluded tenancy

Commercial consideration - this includes money and a benefit in kind (such as a provision of a service or reciprocal use of accommodation).

Guest – this means a person who occupies accommodation under a short-term let

Host – this means a person who is the owner, tenant or person otherwise in control over occupation and use of the accommodation

Dwellinghouse means for these purposes, an independent dwelling (with its own front door, kitchen and bathroom) such as a house, flat, cottage etc.

Unconventional accommodation – this means residential accommodation that is not defined as a dwellinghouse and would include residential accommodation such as glamping pods etc.

Immediate family member — a guest is deemed to be an immediate family member of the host if they are:

1. Your partner (spouse, civil partner or someone you live with as if you were married to them)
2. Is you or your partner's parent or grandparent, child or grandchild or brother or sister
3. Is the partner of one of your parents or grandparents, children or grandchildren, or brothers or sisters

Excluded accommodation – this means accommodation which is, or is part of:

- an aparthotel
- premises in respect of which a premises licence within the meaning of section 17 of the Licensing (Scotland) Act 2005 has effect and where the provision of accommodation is an activity listed in the operating plan as defined in section 20(4) of the 2005 Act
- a hotel which has planning permission granted for use as a hotel
- a hostel
- residential accommodation where personal care is provided to residents
- a hospital or nursing home
- a residential school, college or training centre

- Secure residential accommodation (including a prison, young offenders institution, detention centre, secure training centre, custody centre, short-term holding centre, secure hospital, secure local authority accommodation, or accommodation used as military barracks)
- A refuge
- student accommodation,
- accommodation which otherwise requires a licence for use for hire for overnight stays
- accommodation which is provided by the guest,
- accommodation which is capable, without modification, of transporting guests to another location
- a bothy
- accommodation owned by an employer and provided to an employee in terms of a contract of employment or for the better performance of the employee's duties.

Excluded tenancy – an excluded tenancy means a tenancy which falls within any of the following definitions:

- protected tenancy (within the meaning of section 1 of the Rent (Scotland) Act 1984)
- an assured tenancy (within the meaning of section 12 of the Housing (Scotland) 1988 Act)
- a short assured tenancy (within the meaning of section 32 of the Housing (Scotland) Act 1988)
- a tenancy of a croft (within the meaning of section 3 the Crofters (Scotland Act 1993)
- a tenancy of a holding situated outwith the crofting counties (within the meaning of section 61 of the Crofters (Scotland Act 1993) to which any provisions of the Small Landholders (Scotland) Acts 1886 to 1931(g)) applies
- a Scottish secure tenancy (within the meaning of section 11 of the Housing (Scotland) Act 2001)
- a short Scottish secure tenancy (within the meaning of section 34 of the Housing (Scotland) Act 2001)
- a 1991 Act tenancy (within the meaning of section 1(4) of the Agricultural Holdings (Scotland) Act 2003)
- a limited duration tenancy (within the meaning of section 93 of the Agricultural Holdings (Scotland) Act 2003)
- a modern limited duration tenancy (within the meaning of section 5A of Agricultural Holdings (Scotland) Act 2003)
- a short limited duration tenancy (within the meaning of section 4 of the Agricultural Holdings (Scotland) Act 2003)
- a tenancy under a lease under which agricultural land is let for the purpose of its being used only for grazing or mowing during some specified period of the year (as described in section 3 of the Agricultural Holdings (Scotland) Act 2003)
- a private residential tenancy (within the meaning of section 1 of the Private Housing (Tenancies) (Scotland) Act 2016)
- a student residential tenancy.

Licence Types

- 4.1 There are four types of licences for short term let accommodation. Any licence granted must be for either:
- (a) Secondary letting;
 - (b) Home letting;
 - (c) Home sharing; or
 - (d) Home letting and home sharing
- 4.2 The different types of licences are defined as follows:
- **Secondary letting** – this means a short-term let involving the letting of property where you do not normally live;
 - **Home letting** - this means using all or part of your home for short-term lets whilst you are absent;
 - **Home sharing** – this means using all or part of your own home for short term lets whilst you are there.
- 4.3 A separate licence is required for each of your premises. However, a single licence may be issued in respect of unconventional accommodation where there is more than one separately bookable property on the site.
- 4.4 You do not need a separate licence for short-term lets within the same dwellinghouse. For example, if you are letting out two rooms in your home, that would be covered by one licence.
- 4.5 If you have an HMO Licence for your property, you would still need a short-term let licence if it is also to be used for short-term lets. This is the case whether or not you live at the premises covered by your HMO Licence.
- 4.6 Self-catering property in the grounds of a licensed hotel would be excluded.

5. Application and Notification

- 5.1 Application Forms can be obtained from [Short-term lets licence · East Ayrshire Council \(east-ayrshire.gov.uk\)](https://www.east-ayrshire.gov.uk/short-term-lets-licence)
- 5.2 Applications will only be accepted once all supporting information and fully completed application have been submitted. Send completed application to licensing@east-ayrshire.gov.uk mailbox, a member of the Licensing Team will contact you for payment.
- 5.3 An application will be deemed to be fully submitted when all the required evidential documentation is provided for along with a fully completed application form.
- 5.4 Under the terms of the Act, all applicants who apply for a short-term let licence must display a notice for a period of 21 days beginning with the date on which the application

was submitted to the licensing authority at or near the premises so that it can be conveniently read by the public.

5.5 The notice shall state that an application has been made for a licence, the main facts of the application, that objections and representations in relation to the application may be made to the licensing authority and how to make objections or representations. A template will be provided to the applicant once an application is submitted.

5.6 Applicants are required to certify compliance that they have displayed the site notice as soon as possible after the 21 days has expired. A template will be provided to the applicant once an application is submitted.

5.7 As part of the application process, we will be required to engage with key stakeholders and as such any submitted application can be forwarded to be considered by any of the following:

- Police Scotland
- Scottish Fire and Rescue Service
- East Ayrshire Council's Planning Department
- East Ayrshire Council's Building Standards Department
- East Ayrshire Council's Environmental Health Service
- East Ayrshire Council's Waste Management
- Anti-Social Behaviour Team

5.8 An intelligence risk based approach will be used when considering the level of scrutiny on an application. For example, as part of the application process, digital submission of supporting evidence will be encouraged, such as photos, videos as well as documentation. The Authority will have the right to visit any location and may choose to mandate that visits be carried out where a higher number of short-term lets are present, or where intelligence is received that would encourage further scrutiny on the suitability of the property.

5.9 **Documentation Required with an Application**

(a) Floor/Layout Plan

All applicants for the grant of a STL Licence will be required to submit a floor plan of the premises/areas to be covered by the Licence, and should preferably be drawn in a scale where 1 millimetre represents 100millimetres, or in such other format acceptable to the Council. Plans which do not contain adequate and detailed information may necessitate an inspection of the property by statutory consultees. The layout plan must detail:

- Rooms – living area/bedrooms/bedrooms available for guests
- Room sizes, including bedrooms
- Fire escapes
- Location of heat/smoke alarms
- Location of fire doors
- Location of stairs/elevators/lifts

For renewal applications, where there has been no change to the layout of the premises, a floor plan would not be required with the application.

For variation applications, where the variation relates to a change to the layout of the premises, a floor plan would be required with the application.

(b) Consent from Owner(s)

Where Owner is not the Applicant – An application does not have to be made by the owner of the premises. However, where an applicant other than the owner of the premises applies to the Licensing Authority for a STL Licence, the applicant **must** provide consent from the owner, or if the title to the premises is held by more than one owner, all owners or a person authorised to act on behalf of the owner(s).

Where One or More Owners – Where the premises is owned by more than one person (shared ownership), all owners will have to declare that they consent to the application, if one owner is submitting the application. These declarations would be required with the application.

(c) Fire Detection

Fire detection and alarm systems and carbon monoxide detection systems must comply with the tolerable standard set out in the Housing (Scotland) Act 1987 (Tolerable Standard) (Extension of Criterion) Order 2019. In circumstances where it is not practical to fit to this standard, the alternative layout of and design of the fire detection and alarm system must be assessed by a competent person, taking cognisance of the Building Standards Technical Handbook for domestic premises.

In order to comply with the requirements of this Act, all fire alarms must be interlinked so that they all sound if one is activated. Cognisance must also be given to hearing impaired people who may let the property, i.e. if the property is let by someone who is hearing impaired visual alerts must be installed unless already incorporated in the fire alarm system and carbon monoxide detection systems.

Evidence in the form of a commissioning certificate, i.e. a certificate showing that the fire alarm and carbon monoxide detection systems have been installed in compliance with the tolerable standard set out in the Act. Alternatively, documentation signed off by a competent person, for example a qualified electrician, confirming that the system meets the standards, will be accepted.

5.10 Maximum Occupancy

Occupancy levels will be based on how many bedrooms are available within a property. Children greater than one year old and under 10 should be considered as 0.5 unit where the term of occupancy of the property by the same group extends beyond 16 days. Where occupancy of the property by the same group is of 16 days or less the undernoted table will apply. Hosts will need to ensure accurate occupancy of a let as part of their licence conditions. The following guide can be used, however applications can be discussed on a case by case basis:

Bedroom Size	Number of Guests
1 Bedroom (single)	1
1 Bedroom (double)	2
2 Bedroom (1 single and 1 double)	3 (excluding children under 10)
2 Bedrooms (2 double)	4 (excluding children under 10)

Please note that the Licensing Authority may require additional documentation to be submitted with an application. Where this is the case, the Licensing Authority will advise the applicant directly of this.

6. Objections and Representations

- 6.1 It is open to any member of the public to submit an objection or representation in relation to a short term let licence application.
- 6.2 For an objection or representation to be considered by the Licensing Committee, it must be:
- in writing (email is sufficient)
 - specify the grounds of the objection or the nature of the representation
 - specify the name and address of the person making it
 - be signed off by them or on their behalf
 - be received by the Council within 28 days from when the notice of application is displayed
- 6.3 Anonymous objections or representations will not be considered.
- 6.4 Late objections or representations may be considered if the Council is satisfied that there is sufficient reason as to why it was not made in the time required.
- 6.5 The objection should be relevant to the statutory grounds that can be taken into consideration when refusing an application. These are set out in the Act:
- The applicant or anyone else detailed in the application form is not a fit and proper person to be the holder of a licence;
 - The activity would be carried out by a person other than the applicant who, if he had made the application himself, would have been refused;
 - The premises is not suitable for the conduct of the activity, having regard to the location, character or condition of the premises, the nature and extent of the proposed activity, the kind of persons likely to be in the premises, the possibility of undue public nuisance, public order or public safety
 - Where there is other good reason
- 6.6 It should detail clearly the reasons for the objection/representation and why the applicant and/or the premises are not suitable.
- 6.7 Competent grounds for objection to a licensing application include:
- Concerns that an application is inaccurate or misleading
 - Concerns about the safety of guests, neighbours or others
 - Concerns about noise or nuisance
 - Concerns that the application runs contrary to other legal or contractual requirements
- 6.8 A copy of the objection or representation will be provided to the applicant and will include your name and address.

7. Determination of Application

- 7.1 Every person named on the application form will be subject to the fit and proper test. Every application form will require consultation with Police Scotland who will carry out background checks.
- 7.2 Licensing authorities are responsible for determining whether you are a fit and proper person to be the holder of a licence for short-term lets. Consideration will be given to a wide range of information including relevant criminal convictions, other relevant information provided by Police Scotland, any previous disqualifications from being a private landlord, previous revocations of a HMO licence and providing false or misleading information in your application form.
- 7.3 If there are no objections or adverse representations to a short term let licence application, the application will be determined under delegated powers by the Chief Governance Officer.
- 7.4 If an objection or adverse representation is submitted in relation to the short term let licence application, the application will be subject to a hearing at a meeting of East Ayrshire Licensing Committee.
- 7.5 The person submitting the objection or representation will be invited to attend the meeting of East Ayrshire Licensing Committee and speak to their objection/representation. You will be given at least 14 days' notice of the hearing date.
- 7.6 The applicant or their representative will also be invited to attend the meeting and given the opportunity to state why the application should be granted.
- 7.7 The Committee will be able to ask questions of both parties and, thereafter, decide whether to grant or refuse the application. The grounds for refusing an application are set out at paragraph 6.5.
- 7.8 Applications will be heard in public unless required to be taken privately on the grounds of disclosure of exempt information as defined in Paragraph 3 of Part 1 of Schedule 7A of the Local Government (Scotland) Act 1973.
- 7.9 Both the applicant and the person(s) making an objection/representation can request a statement of reasons for the decision within 21 days of the date of the decision. The statement of reasons will be produced by the Chief Governance Officer within 10 days of that request.
- 7.10 If your application for a licence is refused, you cannot re-apply for a licence within 1 year of that decision, unless there has been a material change in your circumstances since then.

8. Right of Appeal

- 8.1 The applicant and the person(s) making an objection/representation have a right of appeal to the Sheriff Court.

- 8.2 However, they only have this right if they have taken every opportunity to state their case to the Licensing Committee as has been made available.
- 8.3 The Sheriff can uphold an appeal only if the sheriff considers that the licensing authority erred in law, based their determination on any incorrect material fact, acted contrary to natural justice or exercised their discretion in an unreasonable manner.
- 8.4 Any appeal must be lodged by way of a summary application with the relevant Sheriff Clerk's office within 28 days of the date of the decision appealed against.
- 8.5 Parties should seek their own independent legal advice in relation to an appeal.

9. Licence Duration and Renewal

- 9.1 The duration of the licence applies from the date on which the licence comes into force. This will be specified on the licence together with the expiry date of the licence.
- 9.2 When an application is made to renew a licence timeously, the existing licence will continue in effect until such time as a decision is made on the renewal application.
- 9.3 A licence shall have effect-
- for a period of 3 years from the date when it comes into force; or
 - for such shorter period as the licensing authority may decide at that time when they grant; or
 - for such longer period as the licensing authority may decide at the time when they renew a short-term let licence
- 9.4 The Scottish Government's guidance for licensing authorities on short term lets has made it clear that licensing authorities are encouraged to renew licences for a period of 3 years, unless they have good reasons to do otherwise.
- 9.5 Whilst, each application will be decided on its own merits, it is not anticipated that licences will be renewed for a period of longer than 3 years.

10. Licence Conditions

- 10.1 The Act sets out a number of mandatory licence conditions which apply to all short-term lets across Scotland. A list of these conditions can be found at **Appendix 1**.
- 10.2 In addition to the mandatory licence conditions which apply to all short-term lets, licensing authorities may impose additional conditions. These enable the licensing authority to respond to local challenges and concerns relative to specific types of short-term letting.
- 10.3 There are a number of additional conditions which will apply to all short term let properties. There also some specific additional conditions which may only apply to certain types of short term let properties or to properties following investigation of

concerns. A list of the additional licence conditions which may apply to your short-term let licence can be found at **Appendix 2**.

11. Temporary Exemptions

- 11.1 Under the Order and related Guidance, Council's may grant temporary exemptions to the requirement to have a short term let licence.
- 11.2 The Council does not intend to have a policy on temporary exemptions and would not be supportive of such applications. This will be reviewed after a period of 3 years.

12. Temporary Licences

- 12.1 Under the 2022 Order and related Guidance, Council's may decide to grant temporary licences for a duration of up to 6 weeks.
- 12.2 It is not the Council's intention to consider any application for a temporary licence. This will be reviewed after a period of 3 years.

13. Compliance and Enforcement

13.1 Unlicensed Short Term Lets

- 13.1.1 It is a criminal offence to carry on an activity for which a licence is required without having a licence and without reasonable excuse.
- 13.1.2 The Scottish Government has set out the following timescales for hosts and operators. Please note the rules are different depending on whether you are a new host/operator or an existing host/operator:

New hosts/operators

- From 1 October 2022 you **cannot** accept bookings until you have obtained a short term let licence
- From 1 October 2022, you **cannot** operate while your short term let application is being determined

Existing hosts/operators

- Existing hosts/operators must apply for a short term let licence by 1 April 2023, at the latest.
- If you have been trading on or before 30 September 2022, you may continue to accept bookings after 1 October 2022 but only if you have made a licence application by 1 April 2023.

- You can continue to operate for the time it takes for your licence application to be finally determined.
- A provisional licence number will be provided to you on receipt of a licence application
- By 1 July 2024 you should not be trading unless you have been granted a full licence.

13.1.3 A public register will be maintained of licensed short term lets by the Council. This will allow members of the public to check the licensing status of a premises being used as a short term let.

13.1.4 Complaints about suspected unlicensed hosts/operators should be directed to Police Scotland.

13.2 Licensed Short Term Lets

13.2.1 Hosts and operators must ensure that any advert or listing placed on or after they are granted a licence includes their licence number.

13.2.2 Hosts and operators must ensure that they comply with all the mandatory and any additional conditions on their licence. It is a criminal offence to fail to comply with a licence condition if a licence holder has not used all due diligence to prevent the offence.

13.2.3 It is also a criminal offence for a licence holder, without reasonable cause, to fail to notify the licensing authority of a material change of circumstances.

13.2.4 The Council may undertake premises site visits as part of the application process and throughout the duration of the licence to ensure compliance with licence conditions.

13.3 Complaints About Licensed Short Term Lets

13.3.1 In the first instance, guests should raise any concerns about their short term let with their host/operator or letting agent/platform. If the issue is sufficiently severe, then the Council may become involved.

13.3.2 A complaint must be relevant to the matters that the Council can take into consideration. Frivolous or vexatious complaints will not be considered.

13.3.3 The Council can consider matters relating to the suitability of the licence holder, threats to public safety or public order or whether a condition of the licence has been contravened.

13.3.4 These issues would include a host/operator exceeding the number of people staying at the premises, serious disturbance or antisocial behaviour or concerns about the maintenance and safety of the premises. These complaints can be directed to licensing@east-ayrshire.gov.uk.

- 13.3.5 Please note that the Council cannot consider complaints in relation to the quality of a guest's stay or specific contractual matters between the guest and the host/operator as this is outside the scope of the licensing scheme.
- 13.3.6 Complaints will aim to be acknowledged within 5 working days. A full response advising you of the outcome may take some time if the complaint requires further investigation. The complaint may also need to be directed to other departments within the Council such as Planning, Environmental Health or other services such as Police Scotland or Scottish Fire and Rescue Service for input. Complainants will be kept up to date with progress if there is a delay in a full response being provided.
- 13.3.7 Premises site visits may be undertaken by the Council as part of an investigation into a complaint.

13.4 Enforcement

- 13.4.1 It is possible that some complaints may require enforcement action from the Council.
- 13.4.2 The Act provides for several options for enforcement action if justified. This includes additional licence conditions being attached, enforcement notices or variation, suspension or revocation of the licence or in more serious circumstance pursuing a prosecution.
- 13.4.3 An enforcement notice must set out the matters constituting a breach or likely breach, the action required to rectify or prevent the breach and the date by which the action must be taken.
- 13.4.4 If the matter is not addressed satisfactorily by the licence holder, the Council may then consider a variation, suspension or revocation of the licence.
- 13.4.5 You will not be charged a fee for a routine visit. However, you may be charged if a follow up visit is necessary because you have breached one of your licence conditions.

14. Variation of a Licence

- 14.1 A licensing authority may, at any time, whether or not upon an application made to them by the holder of the licence, vary the terms on any grounds they think fit.
- 14.2 A variation application cannot, however, be used to substitute a new holder of the licence for the existing one i.e. effectively to transfer a licence.

15. Suspension or Revocation of a Licence

- 15.1 A licensing authority may, whether upon a complaint made to them or not, suspend or revoke a licence.

- 15.2 A licensing authority may order the suspension or revocation of a licence if in their opinion-
- the holder of the licence is no longer a fit and proper person to hold the licence
 - the licence holder is managing the property on behalf of someone who would have been refused the grant or renewal of the licence
 - the short-term let is causing or is likely to cause undue public nuisance or a threat to public order or public safety; or
 - a condition of the licence has been contravened
- 15.3 The period of suspension can be the unexpired portion of the duration of the licence, or such shorter period as the licensing authority may fix. The effect of the suspension shall be that the licence shall cease to have effect during the period of suspension.

16. Third Party Accreditation

- 16.1 The Council will consider third party evidence, accreditation or certification from certain approved bodies to demonstrate compliance with the mandatory and any additional conditions of a licence.
- 16.2 The Council will also consider the provision of supporting documentation being provided through suitable third-party platforms. Applicants will be expected to provide a link to the database with the supporting documentation in lieu of uploading the documents as part of the application process.

17. Planning Permission

- 17.1 There is a separate legislative process from licensing which allows the Council, as planning authority, to establish short term let control areas.
- 17.2 The purpose of control areas is to help planning authorities manage high concentrations of secondary letting (where it affects the availability of residential housing or the character of a neighbourhood) and to restrict or prevent short term lets in places or types of buildings where it is not appropriate.
- 17.3 Within a control area designated by a planning authority, such a change of use will always require planning permission. The host or operator must make an application for planning permission or already have planning permission before they apply for a licence.
- 17.4 Outside of a control area, it is for the planning authority to consider whether any change of use of a dwelling house is material and, therefore, requires planning permission. This is determined on a case by case basis.
- 17.5 At present there are no short-term let control areas in East Ayrshire nor is there any proposal to advance such an area. This position was reached on the basis that there does not appear to be a need for such control in Planning terms. This is based on the very limited enquiries and/or complaints in respect of short term lets received by the Development Management function of the Council and the outcome of

discussions at recent Member Officer Working Groups during the Local Development Plan 2 process.

- 17.6 Should a short-term let control area be introduced in the future, there would be a requirement at that point for any existing host where planning permission was not previously required, to take steps to ensure continued compliance.
- 17.7 This would mean that if a control area were to come into force during the lifespan of an existing Licence, the host would be required to apply to the local planning authority for consent. It would become a mandatory condition of the licence to do so, and should a host not take those steps, they would be in breach of the regulations and enforcement action would be taken.
- 17.8 Even although there is currently no designated control area in East Ayrshire, hosts and operators are encouraged to engage with the Council's planning department **prior** to submitting a licence application to confirm whether they require planning permission or a certificate of lawfulness of use or development. Hosts and operators should visit <https://www.east-ayrshire.gov.uk/PlanningAndTheEnvironment/Planning-applications/Apply-for-planning/Do-I-need-planning-permission.aspx> in the first instance for further advice on these matters.
- 17.9 Any other queries in relation to planning matters should be directed to submittoPlanning@east-ayrshire.gov.uk.
- 17.10 Whilst the current position is that East Ayrshire has no short-term let Control Areas, this will remain under constant review and may change as the regulations take hold. It should be noted that any intention to introduce a short term let Control Area falls under powers within the Planning Authority.

18. Equality

- 18.1 The Equality Act 2010 Act introduced a new public sector equality duty which requires public authorities, including the Committee, to eliminate discrimination, promote equality and good relations across a range of protected characteristics.
- 19.2 Prior to the Committee implementing this policy an equality impact assessment was undertaken. This can be viewed using the following link [form-A-pdf.php](#)

19. Fees

- 19.1 Licensing authorities are required to charge fees in respect of processing and determining the consideration of applications, the issue of duplicate licences and other matters. They must ensure that the fees are sufficient to cover their administrative expenses and are reviewed periodically to ensure that fees do not exceed the Council's aggregate costs of establishing and running the licensing scheme.
- 19.2 Licensing fees are non-refundable. Whether or not a licensing application is granted, the Council incurs significant costs in processing the application.
- 19.3 Fees for a short term let licence will vary dependent on the type of licence being applied for and the maximum occupancy. Fees proposed are:

New Licence	Max Occupancy (Up to 4)	Max Occupancy (5 or More)
Secondary Let	£250.00	£400.00
Home Sharing or Home Letting (or both)	£125.00	£250.00

Renewal Licence	Max Occupancy (Up to 4)	Max Occupancy (5 or More)
Secondary Let	£200.00	£350.00
Home Sharing or Home Letting (or both)	£75.00	£200.00

Other Applicable Fees	Cost
Variation	£75.00
Replacement/Duplicate Licence	£50.00

APPENDIX 1 – MANDATORY LICENCE CONDITIONS

1. Agents

Only those named as a holder of the licence can carry out the day to day management of the short-term let of the premises.

2. Type of licence

The holder of the licence may only offer the type of short-term let for which the licence has been granted.

3. Fire safety

The holder of the licence must ensure the premises has satisfactory equipment installed for detecting, and for giving warning of—

- (a) fire or suspected fire, and
- (b) the presence of carbon monoxide in a concentration that is hazardous to health.

4.

The holder of the licence must keep records showing that all upholstered furnishings and mattresses within the parts of the premises which are for guest use, or to which the guests are otherwise permitted to have access, comply with the Furniture and Furnishings (Fire Safety) Regulations 1988.

5. Gas safety

Where the premises has a gas supply—

- (a) the holder of the licence must arrange for an annual gas safety inspection of all gas pipes, flues and appliances in the premises;
- (b) if, after an annual inspection, any appliance does not meet the required safety standard, the holder of the licence must not allow a short-term let of the premises until the works necessary to bring the appliance to the required safety standard have been carried out.

6. Electrical safety

Where there are electrical fittings or items within the parts of the premises which are for guest use, or to which the guests are permitted to have access, the holder of the licence must—

- (a) ensure that any electrical fittings and items are in:-
 - (i) a reasonable state of repair, and
 - (ii) proper and safe working order
- (b) arrange for an electrical safety inspection to be carried out by a competent person at least every five years or more frequently if directed by the competent person,
- (c) ensure that, following an electrical safety inspection, the competent person produces an Electrical Installation Condition Report on any fixed installations,

(d) arrange for a competent person to:-

- (i) produce a Portable Appliance Testing Report on moveable appliances to which a guest has access, and
- (ii) date, label and sign all moveable appliances which have been inspected.

7. In determining who is competent, the holder of the licence must have regard to guidance issued by the Scottish Ministers under section 19B(4) of the Housing (Scotland) Act 2006(2).

8. Water safety: private water supplies

Where the premises are served by a private water supply, the licence holder must comply with the requirements on the owners of private dwellings set out in the Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017.

9. Water safety: legionella

The holder of the licence must assess the risk from exposure to legionella within the premises, whether or not the premises are served by a private water supply.

10. Safety and Repair Standards

(a) The holder of the licence must take all reasonable steps to ensure the premises are safe for residential use.

(b) Where the premises are subject to the requirements of Chapter 4 of Part 1 of the Housing (Scotland) Act 2006, the holder of the licence must ensure that the premises meet the repairing standard.

11. Maximum Occupancy

The licence holder must ensure that the number of guests residing on the premises does not exceed the number specified in the licence.

12. Information to be displayed

The holder of the licence must make the following information available within the premises in a place where it is accessible to all guests—

- (a) a certified copy of the licence and the licence conditions,
- (b) fire, gas and electrical safety information,
- (c) details of how to summon the assistance of emergency services,
- (d) a copy of the gas safety report,
- (e) a copy of the Electrical Installation Condition Report, and
- (f) a copy of the Portable Appliance Testing Report.

13. Planning Permission

Where the premises is in a short-term let control area for the purposes of section 26B of the Town and Country Planning (Scotland) Act 1997 ("the 1997 Act"), the holder of the licence must, where the use of the premises for a short-term let requires planning permission under the 1997 Act, ensure that either:-

- (a) an application has been made for planning permission under the 1997 Act and has not yet been determined, or
- (b) planning permission under the 1997 Act is in force.

14. Listings

(1) The holder of the licence must ensure that any listing or advert (whether electronic or otherwise) for the short-term let of the premises includes—

- (a) the licence number, and
- (b) a valid Energy Performance Certificate rating if an Energy Performance Certificate is required for the premises, in accordance with the Energy Performance of Buildings (Scotland) Regulations 2008

(2) The holder of the licence must ensure that any listing or advert (whether electronic or otherwise) for the short-term let of the premises is consistent with the terms of the short-term let licence.

15. Insurance

The holder of the licence must ensure that there is in place for the premises—

- (a) valid buildings insurance for the duration of the licence, and
- (b) valid public liability insurance for the duration of each short-term let agreement.

16. Payment of fees

The holder of the licence must pay any fees due to the licensing authority in respect of the licence on demand.

17. The holder of the licence must not provide any false or misleading information to the licensing authority.

18. Interpretation

In this schedule—

“Electrical Installation Condition Report” means a report containing the following information—

- (a) the date on which the inspection was carried out,
- (b) the address of the premises inspected,
- (c) the name, address and relevant qualifications of the person who carried out the inspection,

- (d) a description, and the location, of each installation, fixture, fitting and appliance inspected,
- (e) any defect identified,
- (f) any action taken to remedy a defect

“Energy Performance Certificate” means a certificate which complies with regulation 6 of the Energy Performance of Buildings (Scotland) Regulations 2008

“Gas Safety Report” means a report containing the following information—

- (a) the date on which the appliance or flue was checked,
- (b) the address of the premises at which the appliance or flue is installed,
- (c) a description of and the location of each appliance or flue checked,
- (d) any safety defect identified,
- (e) any remedial action taken,
- (f) confirmation that the check undertaken complies with the requirements of an examination of—
 - (i) the effectiveness of any flue,
 - (ii) the supply of combustion air,
 - (iii) subject to head (iv), its operating pressure or heat input or, where necessary, both
 - (iv) If it is not reasonably practicable to examine its operating pressure or heat input (or, where necessary, both) its combustion performance,
 - (v) Its operation so as to ensure its safe functioning
- (g) The name and signature of the individual carrying out the check, and
- (h) The registration number with which that individual, or that individual's employer is registered with a body approved by the Health and Safety Executive for the purposes of regulation 3(3) of the Gas Safety (Installation and Use) Regulations 1998.

APPENDIX 2 – ADDITIONAL LICENCE CONDITIONS

1. Material Changes

- 1.1 The licence holder shall notify the Council immediately of any material change of circumstances affecting the licensed premises or the licence holder (or any agent appointed by them to manage part or all of the licensed activity), including details of any criminal convictions incurred by such persons since the granting or renewal of the licence

2. Reporting of Certain Incidents

- 2.1 The licence holder shall notify the Council, as soon as is reasonably practicable, of the details of any incident affecting, or within, the licensed premises which:

- (a) has resulted in structural damage to, or structural collapse within, the premises, or
- (b) which has involved a gas leak, fire, or explosion necessitating the call-out of the Emergency Services.

3. Anti-Social Behaviour

- 3.1 The licence holder must take reasonable steps to manage the premises in such a way as to seek to prevent and deal effectively with any antisocial behaviour by guests to anyone else in the short-term let and in the locality of the short-term let.
- 3.2 The licence holder must take reasonable steps to:
- (i) ensure that no disturbance or nuisance arises within or from the premises, for example by explaining the house rules to the guests;
 - (ii) deal effectively with any disturbance or nuisance arising within or from the premises, as soon as reasonably practicable after the licence holder is made aware of it; and
 - (iii) ensure any vehicles belonging to guests are parked lawfully, for example explaining where any designated parking spaces are to be found and highlighting any local rules.
- 3.3 The licence holder shall notify the Council, as soon as is reasonably practicable, of the details of any incident of anti-social behaviour affecting or emanating from the premises which has necessitated police involvement.

4. Privacy and Security

- 4.1 The licence holder must manage the premises in such a way as to respect and protect the privacy and security of neighbours.
- 4.2 The licence holder must ensure:
- guests know and understand any particular rules applying to shared areas and entrances;

- guests understand that shared doors should be properly and securely closed after use; and
- the provision of access codes or keys to guests cannot be used by guests to gain access to shared areas after they have finally departed.

5. Noise

- 5.1 The licence holder must ensure that the bedrooms, living room and hallway in the premises have a suitable floor covering in order to minimise impact and airborne noise affecting any properties below. (i.e. carpet or vinyl floor covering with quality underlay)

(Condition may be applied following investigation of concerns regarding noise and would be applied to properties located at 1st floor and/or above where a residential property is located below.)

- 5.2 At no time should noise generated from the property give rise to disturbance to neighbouring properties and any tenant should be aware that in the event of excessive noise being generated, the Council will investigate with a view to service of an Abatement Notice under the Environmental Protection Act 1990 or issue of a Fixed Penalty Notice under Part 5 Noise Provisions of the Antisocial Behaviour (Scotland) Act 2004, and any such Notice will be served on the tenant of the property. Neither course of action would preclude investigation by Police Scotland.

(Condition may be applied following investigations of concerns regarding noise.)

- 5.3 The licence holder must take reasonable steps to ensure that guests do not first arrive or finally depart from the property between the hours of 11 pm to 7 am. The licence holder must advise guests of this as part of their booking terms and conditions. (Note: “reasonable steps” allows for exceptions, such as significantly delayed transport.)

(Condition would only be applied to those properties located at 1st floor and/or above where a residential property is located below, in close proximity to a neighbouring property or whether there is a shared entrance/communal areas.)

- 5.4 The licence holder must take reasonable steps to ensure that guests do not use the hot tub after 2200hrs.

(Condition may be applied following investigation of concerns regarding noise associated with hot tubs and where a hot tub is positioned in close proximity or overlooked by neighbouring property.)

- 5.5 The licence holder must take reasonable step to ensure that guests do not play amplified music within the garden or external areas after [23:00 hours] where it would impact neighbouring residents.

(Condition may be applied following investigation of concerns regarding noise associated with playing music in outdoor areas.)

6. Littering & Waste Disposal

- 6.1 The licence holder shall ensure that adequate facilities, to the satisfaction of the Council, are provided for the storage, recycling and disposal of all waste and shall ensure that all common areas of the premises and all common external areas within the curtilage of the premises are kept in a clean, tidy, and well-maintained condition to the satisfaction of the Council.
- 6.2 The licence holder shall be responsible for advising residents of the refuse collection day and for making arrangements for the presentation of wheeled bins for collection at the appropriate time and day.
- 6.3 The licence holder should:
- (a) clearly label bins as belonging to the premises
 - (b) ensure guests are made aware of how to correctly use the bins provided for the premises
 - (c) provide bins/sacks
 - (d) ensure that guests manage their waste properly, including when they depart
 - (e) ensure guests are made aware as to what items should not be disposed of by flushing down the toilet

7. Preventing damage to property

- 7.1 The licence holder must not affix a key box, or other device to facilitate guest entry to the property, to any public or jointly owned private infrastructure without prior written permission of the relevant authority or owner(s). The licence holder must be able to produce the permission to the licensing authority on request.

8. Hot Tubs/Spa Pools/Whirlpool Baths Etc.

- 8.1 The Licence holder must declare if they provide the use of a hot tub/spa pool (or similar) for guests.
- 8.2 The Licence holder must ensure:
- That a separate Legionella risk assessment is carried out for this facility and provide evidence to the Licensing Section as part of the application
 - Relevant and routine testing and monitoring is carried out as set out by HSE : www.hse.gov.uk/legionnaires/spa-pools
 - Ensure that provision is included within EICR reports
 - The provision of information on safe use / risks are provided to guests

9. Wood Burning Stoves/open fires

- 9.1 The Licence holder must declare the provision of any wood burning stoves/open fires (or similar) for both indoor and outdoor use for guest use.
- 9.2 The Licence holder must:
- Ensure that provision is included and taken account of as part of the fire risk assessment

- Acknowledge the smoke control areas within East Ayrshire and commit to using appropriate materials for guest usage
- Ensure the provision of information on safe use / risks are provided to guests

10. Prohibition of LPG room-heaters and storage of inflammable liquids etc.

- 10.1 The licence holder shall not permit the use or storage on the premises of LPG room-heaters or, unless in an external store designed and approved for such storage, the storage of any liquified petroleum gas (LPG) or any highly inflammable liquid, gas, or substance. This condition shall not apply to small amounts of liquids or gas sold in small non-refillable retail packs (e.g. lighter fuel or cosmetic appliance cartridges) kept by guests for their own use. Nor shall it apply to the external storage of LPG in cylinders or tanks which are provided by the licence holder for the provision of gas for cooking or for water or space heating or other domestic use, provided the storage complies fully with LPGA Codes of Practice and Building Regulation Technical Standards and that any installation connected to such cylinders or tanks complies with The Gas Safety (Installation and Use) Regulations 1998 or any amendment thereto.

11. Maintenance of property

- 11.1 Where there is a solid fuel appliance within the premises (i.e. wood burning stove), the holder of the licence shall ensure: -

- (a) the chimney/flue associated with the appliance is inspected and cleaned annually by a suitably competent person.
- (b) a record of the annual inspection and cleaning of the flue is able to be produced, on request by the Council

- 11.2 Where there is a hot tub provided at the premises, the holder of the licence shall ensure:-

- (a) That it is suitably located and maintained so as to ensure it can be safely operated and used by guests;
- (b) That suitable and sufficient cleaning and disinfection procedures are in place;
- (c) That guests are provided with clear instructions on its safe use and any restrictions on its use;
- (d) That it is kept securely covered when not in use.

- 11.3 In compliance with The Control of Substances Hazardous to Health Regulations 2002 and L8 Approved Code of Practice, The Control of Legionella Bacteria in Water systems; a Legionella risk assessment must be undertaken and a copy provided to the Licensing Section. Significant findings of the risk assessment and necessary actions and/or works must be carried out and details provided to the Licensing Section. All controls, monitoring and maintenance must be implemented in accordance with the findings of the risk assessment and the aforementioned legislation and guidance.

12. Requirement to produce on demand any policy, certificate etc.

- 12.1 The licence holder shall require to produce on demand to any authorised person any policy, certificate, document, record, certificate of inspection or safety, licence or plan required by or issued in terms pursuant to any condition of this licence.